

is more likely ripe if it poses purely a legal question and is not contingent on future possibilities. Id.

The hardship prong requires that the party seeking declaratory relief show that the plaintiff has sustained or is in immediate danger of sustaining some direct injury as a result of the challenged issue. Id. The plaintiff need not wait until the threatened injury occurs, but the injury must be impending. Id.

In the instant case, there are no additional facts that need to be developed in order to determine the legal obligations of the parties. The allegations state that the coverage at issue is dependent on a vehicle accident that has already occurred. The facts related to the accident are known and “fixed.” The specific policy and coverage with respect to the declaratory relief sought are also known and “fixed.” Thus, the disagreement between the parties is not dependent or contingent upon any hypothetical fact or future possibility or expected events. Plaintiff is specifically seeking a judgment declaring that as to this particular accident, under this particular policy, the underinsured motorist coverage (UIM) is not available.

As to the hardship prong, the allegations and documents submitted in support of plaintiff’s claim for declaratory relief show that defendants have put plaintiff on notice that they intend to make further claims under their insurance policy with plaintiff. These claims would include one under the UIM provision of the policy held by the defendants. This is a showing of sufficient hardship against the plaintiff. Plaintiff need not wait for defendants to actually file a suit against it in order to resolve the interpretation and application of the insurance contract at issue.

Defendants claim that a declaratory judgment is premature because their claim against the negligent driver has not been resolved is without merit. The Eighth Circuit has specifically held that “[i]n the insurance policy coverage context, a declaratory judgment action is ripe irrespective of whether the underlying litigation is ongoing or resolved.” Scottsdale Ins. Co. v. Universal Crop Protection Alliance, LLC., 620 F.3d 926, 934 (8th Cir. 2010).

Conclusion

For the foregoing reasons,

IT IS ORDERED that defendants’ motion to dismiss is denied. [6]

Dated this 27th day of April, 2012, at Jefferson City, Missouri.

/s/ *Matt J. Whitworth*

MATT J. WHITWORTH
United States Magistrate Judge